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PATENT
Serial No: 09/933,229
Docket No. CONTC.57582

REMARKS

The courteous and helpful interview granted the undersigned attorney on June 20, 2002 is gratefully acknowledged.

In a telephone interview conducted April 11, 2002, Applicant's undersigned attorney agreed that Claim 28 could be withdrawn without prejudice as being drawn to a non-elected species.

At such interview, Applicant's invention was discussed. Such invention includes a paper cover bonded to a more rigid core member and projecting from at least one side to form a flexible longitudinal flap with lengthwise grooves configured with ridges therebetween for being imbedded in joint material to be affixed to the joint between drywall panels. The paper may be reinforced with latex or the like. The preferred embodiment includes four ridges defining therebetween three grooves with the ribs rising up 1/64 of an inch from the grooves. In one embodiment, perforations are incorporated in the flaps in the groove area to channel joint material therethrough. The invention provides a new bead device where there is no need to abrade the flaps or form mole holes in the core. Rather, the flaps are inexpressively knurled without requiring special sandpaper backing paper and abrading thereof. It also provides a new result where the grooves and ridges cooperate with the joint material to mechanically lock the flaps securely in place without nailing of the core.

The Examiner rejected Claims 1, 3, 5-9, 12-13 and 20 under §35 U.S.C. 103 (a) as being unpatentable over Kunz in view of Peterson.

The Examiner recognized that Kunz does not show flaps having length-wise grooves with ridges interposed therebetween. He, however, takes the position that Peterson shows length-wise grooves (5) and ridges (7) on a flap of a cover to impart flexibility. He states that it would have been obvious to one of ordinary skill to modify the Kunz flaps to show lengthwise grooves and ridges to enable the cover to compensate for shrinkage in the plaster and to provide a better attachment of the cover to a wall as taught by Peterson. This is not the purpose of Applicant's or structure of Applicant's ridges.

As discussed during the above-referenced interview, Kunz is also directed to a tape-on bead and relies on the particular paper for his paper cover that is considered critical to the invention (Column 3, Lines 65-67). He criticizes paper impregnated with latex or other strengthening compound as it performs poorly when subjected to tests which measure resistance to peeling (Column 4, Lines 6-16). Rather, he relies on paper treated by sandpapering to abrade the surface to partially loosen the surface fibers and break the surface bond (Column 3, Lines 37-40). Consequently, Kunz appears to be relying on the conditioning of the surface of his paper by sanding to break the surface bond believing that subsequent embedding in the joint cement will produce satisfactory anchoring of the bead.

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On the other hand, Peterson is directed to a totally different corner beads. His disclosure, while less than explicit, appears to disclose a chamfered corner which provides for expansion and contraction. His corner bead appears to be intended for use with lathes 2 which are covered with plaster 12 after the bead has been secured in place (Column 1, Lines 40-45). He provides openings 11 through which nails may be pounded to hold the bead in place while the plaster 12 is applied. He provides hollow roll ribs 7 to be exposed along their rounded exteriors when the plaster is finished probably by trowling, to provide an attractive finish (Column 1, Lines 59-60).

It appears the element number 9 in Fig. 3 merely points to the metallic bead and does not point to any type of groove or ridge. It is possible the uncrossed hatched element in Fig. 3 is merely a bore for communication of wet plaster or possibly nailing.

There is no suggestion in Peterson of reducing the size of the rolls 7 such that they might be concealed in joint material or might be incorporated in paper flaps to anchor the bead in position independent of the nails to be pounded through the holes 11. If fact, the reduction of the cross-section of such rolls to not be exposed to the exterior of the plaster as troweled in position would appear to be contrary to the teachings of Peterson. Such modification would result in the loss of the rolls 7 being exposed to enhance the attractive finish.

As noted during the interview, nail-on metal beads are old in the art. It is common to form such beads with knurling. Attached hereto as Exhibit A is a photograph of a section of one such

bead, Applicant believes his has been on the market for many years. Since these beads are formed with nail holes for nailing, they do not typically incorporate paper flaps and particularly, not paper flaps which are knurled with ridges and grooves to be anchored in joint compound. To delete the nail holes and add flaps would be to defeat the purpose of nail on beads. In Re Gurley 27 F.3d 551, 553 (Fed. Cir. 1994).

The mere fact that the references may be modified does nothing to discharge the Examiner's burden of demonstrating the claimed action is *prima facie* obvious. There is no showing that the modification and combination is suggested by the prior art. In Re Fritch 972 F.5d 1260, 1265, 1266 U.S.P.Q. 1596, 1598 (Fed. Cir. 1988).

Applicant was the first to appreciate that by knurling paper flaps projecting from the core, the nail holes and knurling in the core could be dispensed with had it been obvious to Applicant or anyone else skilled in the art it would have been done years ago to save the expense of reinforcing and sanding the flaps.

The Examiner has not demonstrated how the substitution of the rolls in Peterson for something in Kunz would provide Applicant's claimed invention. He has not shown where such rolls would be incorporated, the number necessary to achieve Applicant's objective or the relative size thereof or other such modifications which he believes would be necessary to achieve the results of Applicant's invention.

Moreover, the Examiner has failed to show any motivation for combining the Kunz and Peterson beads. Peterson relies on a sandpaper backing paper to cover and form flaps which are sanded and embedded in joint material used with wallboard. Peterson is directed to lath and plaster construction where a metal bead is nailed in place before the plastering step. He is not concerned with wallboard or joints between wallboard or tape to anchor joint beads in position. Nor is there any teaching that the sandpaper backing type, paper of Kunz could be knurled as shown in FIG. 6 of Applicant's drawings.

Kunz seeks to conceal his entire bead under joint material. Peterson seeks to expose the outer edges of his rolls. His beads are nailed in position. There is no showing that troweling of plaster in place would adequately anchor such beads without nailing. The Examiner is correct that the references could be modified and combined. That is not the issue.

Even if Peterson was directed to a metal nail on bead with longitudinal grooves and ridges, there would still be no suggestion of combining. Nail on beads are adequately anchored by nailing and do not require paper flaps or wings. The anchoring of these prior art beads in position is totally different and one does not suggest the other. Applicant was the first to knurl anchoring paper flaps to afford the lock-in effect sufficient to anchor in the joint compound without abrading a paper flap or nailing a rigid core.

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Weldy adds nothing to Kunz suggestive of Applicant's claimed construction. Rather, it merely shows an extruded plastic strip to be nailed in position through the nail holes 26 as shown in Fig. 2. The striations referred to are not shown to be grooves and ridges which would serve as the anchoring feature.

Bergin adds nothing suggestive of Applicant's construction. Rather, he merely shows a pre-finished corner bead incorporating a vernier 6 (Fig. 3) covering a bull nose corner and abutting its opposite edges against longitudinal expansion joints 2.

Claims 1, 14, 15, 16, 17, 18, 20, 21, 29, 30, 31 & 32 are the independent claims remaining in the case. Claim 28 has been cancelled.

Each of these claims in some form include grooves and ridges in flexible flaps such as paper flaps. On this basis it is believed that each of the claims distinguish over the art.

The Examiner argues that the method claims 21-27 and 29 recite obvious subject matter. The Examiner argues that Claim 21 would be obvious over Kunz in view of Peterson and further in view of Bergin.

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This rejection appears to be on the mistaken belief that Kunz as modified by Peterson shows all the claim limitations except for the core being made of plastic. To the contrary, Claim 21 calls for the method for making a drywall joint protection strip including, inter alia, forming length-wise grooves and ridges in parallel alternating relationship along the flaps. There is no suggestion in either Kunz or Peterson or the two in combination of revising the Kunz method to form such a flap. Kunz involves the step of sanding, rather than the step of forming multiple grooves. In fact, Kunz suggests minimizing protrusions and configuring the covering strip for sanding. The Examiner fails to describe how a grooved strip could be sanded or, why a sanded strip should be grooved. Peterson, at the most, discloses a single rub or roll 7 on each lateral side of the body of his metallic core, thus leaving only the space between such rolls as separated by a 90° corner of the bead, as what could even remotely be deemed a groove. Then, there is only a single groove and no suggestion of how or why there should be multiple grooves.

Bergin is of no assistance in showing multiple grooves on a single flap to facilitate embedding in a joint compound. As noted above, Bergin only discloses expansion joints in the body of a nail on bead. Expansion joints suggest flexing to accommodate shifting in the physical relationship of the components joined together. That is not the purpose of Applicant's knurling of his anchoring flaps. There is no showing in the art of why the step of sanding paper to be used as a flap could be deleted and the step of (1) forming a rib in a nail or flap or (2) a flex joint should be

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substituted therefor. Accordingly, there is no motivation in the art for making the modification suggested by the Examiner. In fact, to form Kunz with multiple grooves in the opposed flaps would be to defeat his objective of providing flat sanded cover elements. Claims 22-27 all depend directly or indirectly from Claim 21 and are likewise believed allowable.

Claim 29 is of a scope similar to Claim 21 and calls for alternating length-wise grooves and ridges in the flaps of a paper cover projecting transversely from a core.

Claim 30 recites the detailed configuration of the grooves and ridges as well as detailed configuration of the perforations. Even if there existed a motivation for combining the prior art, there is clearly no motivation for modifying that prior art further to provide grooves spaced 1/8 of an inch apart and separated by ribs 1/64 of an inch high in paper flaps.

Claim 31 has been added to depend from Claim 1 and includes the further limitation that the cover is constructed of fibers covered by a thin film of strengthening compound. This construction is described at the bottom of page 10 of the specification. Again, since Kunz criticizes latex strengthening, there is no suggestion of fiber encapsulation with strengthening material.

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Claim 32 recites the cover as including a flap having groove and ridge anchor means to submerge in joint material to act as the anchoring element for the device. The means is recited as being spaced from the edge of the relatively hard core. Since there is no showing in the prior art of how anchor means could be formed in flexible flaps spaced from the edge of the core in such a manner as to act as an anchor submerged in joint compound.

Applicant has made an important contribution to the art and protection therein is important. It is believed that the Claims in the case are now in condition for allowance and early notice thereof is respectfully solicited. If the Examiner is not in agreement, it is requested that he contact the undersigned attorney to discuss the matter. It is believed that Applicant has made a significant contribution to the art and his important invention should be protected.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

At page 9, line 18 to page 10, line 1 (change implemented at page 10, line 1 of the clean version submitted concurrently herewith) please amend the sentence as follows:

In a preferred embodiment, I have found that [from] parallel groove 56 and ridges 58 perform satisfactorily.

At page 10, lines 15 through 19 (change implemented at page 10, line 19 of the clean version submitted concurrently herewith), please amend the sentence as follows:

It has been discovered that, in one embodiment these objectives are satisfied in a paper cover fabricated by mixing fibers and strengthening compound to encapsulate the fibers with a thin film and then combining three or more layers of such a film to produce a tear-and temperature-resistant paper cover material, as described in copending U.S. Application Serial Number 09/825,766, filed on April 3,2001, and now U.S. Patent No. [_____].

IN THE CLAIMS:

17. (Amended) A drywall joint assembly strip device to be covered by flowable joint

compound and comprising:

an elongated core;

a paper cover bonded to said core so as to extend beyond the longitudinal edges of

5 said core to form flexible flaps, said flaps being formed on at least one side with longitudinal rib
means for, when said joint compound is applied thereto, afford a mechanical barrier to shifting
relative to such compound; and

said flaps formed with compound-directing means and communication means to
provide for the communication of said flowable joint compound between said outwardly-facing
10 surfaces and said inwardly-facing surfaces to, when set up, fill the [respective said perforations]
compound directing means with compound posts.

31. (New) The protective drywall joint strip device of Claim 1 wherein:

said cover is constructed of fibers covered with a thin film of strengthening material.

32. (New) A protective drywall joint strip device comprising:

An elongated, a relatively rigid core terminating in at least one longitudinal edge
and having an outer surface;

a relatively flexible cover bonded to said core and configured to project laterally

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beyond said edge to form a flexible longitudinal flap; and

said flap including elongated lengthwise screw and ridge means spaced from said edge and configured to form a plurality of lengthwise grooves and ridges to be anchored in joint compound to anchor such strip device thereto or by such strip device may be placed over a joint
5 between a pair of drywall panels and joint compound thereover to be received in said grooves to cooperate in anchoring said ribs against shifting relative to such joint material.

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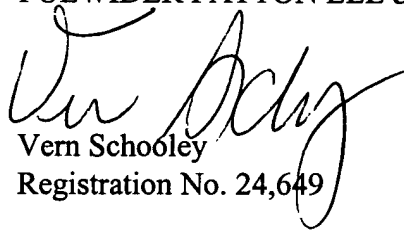
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CONCLUSION

It is respectfully submitted that the application as it now in condition for allowance. If any additional fees are required, please charge our Deposit Account No. 21-0800. If for any reason, the application is not deemed in compliance, the Examiner is invited to call the undersigned to resolve the matter.

Sincerely,

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